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AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Part 752

RIN 0412-AA85

Government Property—USAID Reporting Requirements

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development (USAID) seeks public comment on a proposed rule that would amend the USAID Acquisition Regulation (AIDAR) clarifying accountability for all mobile Information Technology equipment provided as government-furnished property by Government officials.

DATES: Comments must be received no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Address all comments concerning this proposed rule to Carol Ketrick, Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P), Room 867F, SA-44, Washington, D.C. 20523-2052. Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

1. Through the Federal eRulemaking Portal at <http://www.regulations.gov> by following the instructions for submitting comments.
2. By E-mail: Submit electronic comments to cketrick@usaid.gov. See SUPPLEMENTAL INFORMATION for file formats and other information about electronic filing.
3. By Mail addressed to: USAID, Bureau for Management, Office of Acquisition & Assistance, Policy Division, Room 867-F, SA-44, Washington, D.C. 20523-2052.

FOR FURTHER INFORMATION CONTACT: Carol Ketrick, Telephone: 202-567-4676 or E-mail: cketrick@usaid.gov

SUPPLEMENTARY INFORMATION:

A. Instructions:

All comments must be in writing and submitted through one of the methods specified in the Addresses section above.

All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title,

organization, postal address, telephone number, and e-mail address in the text of the message.

Comments submitted by e-mail must be included in the text of the e-mail or attached as a PDF file. Please avoid using special characters and any form of encryption. Please note that USAID recommends sending all comments to the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington.

Three days after receipt of a comment and until finalization of the action, all comments will be made available at <http://www.regulations.gov> for public review without change, including any personal information provided. We recommend you do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

USAID will only address comments that explain why the rule would be inappropriate, ineffective, or unacceptable without a change. Comments that are insubstantial or outside the scope of the rule may not be considered.

B. Background.

The Federal Government has been taking proactive steps to improve management and oversight of IT equipment especially

in light of recent federal cybersecurity incidents. As part of a larger Agency effort to strengthen and clarify existing policy and procedures for accountability of all USAID Information Technology (IT) equipment and access to agency facilities and information systems, USAID is clarifying the requirements in the clause in the AIDAR at § 752.245-70, Government Property - USAID reporting requirements. While the clarifications are minor in nature, the entire clause at § 752.245-70 is being replaced at this time to correct formatting.

As stated in the clause at § 752.245-70, government-furnished property includes personal property furnished either prior to or during the performance of the contract by any U.S. Government accountable officer to the contractor for use in connection with performance of this contract and identified by such officer as accountable. Instead of requiring designation of mobile IT as accountable on a case-by-case basis, the clause is being amended to clarify that all mobile Information Technology (IT) equipment is identified as accountable. This includes both mobile IT equipment that is USAID-owned and furnished to the contractor, as well as contractor acquired mobile IT equipment, title to which vests in the U.S. Government.

Mobile IT equipment includes, but is not limited to, mobile phones (e.g. smartphones), laptops, tablets, and encrypted devices. The format of the required Annual Report of Government Property in Contractor's Custody is corrected to read that all accountable government-furnished property must be reported.

C. Regulatory Planning and Review.

This rule has been determined to be "nonsignificant" under Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993 and, therefore, is not subject to review.

This rule is not a major rule under 5 U.S.C. §804.

D. Regulatory Flexibility Act. The proposed rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. §601, et seq. Therefore, an Initial Regulatory Flexibility Analysis has not been performed.

E. The proposed rule clarifies but does not establish a new collection of information that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 752

Government procurement.

For the reasons discussed in the preamble, USAID proposes to amend 48 CFR Chapter 7 as set forth below:

PART 752 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 752 continues to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and 3 CFR 1979 Comp., p. 435.

2. Revise 752.245-70 to read as follows:

752.245-70 Government property-USAID reporting requirements.

USAID contracts, except those for commercial items, must contain the following preface and reporting requirement as additions to the appropriate Government Property clause prescribed by (48 CFR) FAR 45.107, per a GAO audit recommendation.

Preface: to be inserted preceding the text of the FAR clause.

Government Property-USAID Reporting Requirements (XXX 2016)

(a)(1) The term Government-furnished property, wherever it appears in the following clause, shall mean (1) non-

expendable personal property owned by or leased to the U.S. Government and furnished to the contractor, and (2) personal property furnished either prior to or during the performance of this contract by any U.S. Government accountable officer to the contractor for use in connection with performance of this contract and identified by such officer as accountable. All mobile Information Technology (IT) equipment, including but not limited to, mobile phones (e.g. smartphones), laptops, tablets, and encrypted devices, either provided as government furnished property, or acquired by the contractor, title to which vests in the U.S. Government, are considered accountable.

(2) The term Government property, wherever it appears in the following clause, shall mean Government-furnished property and non-expendable personal property title to which vests in the U.S. Government under this contract, including "Contractor-acquired Property" title to which vests with the U.S. Government. Non-expendable personal property, for purposes of this contract, is defined as personal property that is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and that has a unit cost of more than \$500.

(b) Reporting Requirement: to be inserted following the text of the (48 CFR) FAR clause.

Reporting Requirements: The Contractor will submit an annual report on all Government property in a form and manner acceptable to USAID substantially as follows:

Annual Report of Government Property in Contractor's Custody

[Name of Contractor as of (end of contract year), 20XX]

	Motor vehicles	Furniture and furnishings–		Other Govern- ment property
		Offic e	Living quarters	
A. Value of property as of last report				
B. Transactions during this reporting period				
1. Acquisitions (add):				
a. Contract acquired property ¹				
b. Transferred from USAID ²				
c. Transferred				

from others, without reimbursement ³				
2. Disposals (deduct):				
a. Returned to USAID				
b. Transferred to USAID– Contractor purchased				
c. Transferred to other Government agencies ³				
d. Other disposals ³				
C. Value of property as of reporting date				
D. Estimated average age of contractor held property				
	Years	Years	Years	Years

¹Personal property that is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and that has a unit cost of more than \$500.

² Government-furnished property listed in this contract as nonexpendable or accountable.

³ Explain if transactions were not processed through or otherwise authorized by USAID.

Property Inventory Verification

I attest that (1) physical inventories of Government property are taken not less frequently than annually; (2) the accountability records maintained for Government property in our possession are in agreement with such inventories; and (3) the total of the detailed accountability records maintained agrees with the property value shown opposite line C above, and the estimated average age of each category of property is as cited opposite line D above.

Authorized Signature _____

Name _____

Title _____

Date _____

Roy Plucknett,

Chief Acquisition Officer.

Date: October 20, 2016.

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